BUSINESS IMPACT

When MCLs are not the most feasible or appropriate approach to minimizing the level of a contaminant in drinking water, regulations are adopted that use "treatment techniques" to control the levels of the contaminant instead. The lead and copper rule is a "treatment technique" regulation.

On December 11, 1995, for conformance with the federal lead and copper rule, California adopted requirements for community and nontransient-noncommunity water systems to monitor and treat drinking water to minimize the corrosivity and, therefore, the lead and copper levels, in water served to the public. On Jan 12, 2000, EPA promulgated revisions to the lead and copper rule that include requirements that California must adopt to maintain primacy and others that are optional. This proposed regulation package incorporates all the required and almost all of the optional revisions.

When the Department initially adopted the federal requirements, it had a limited timeframe within which to do so and was not able to rewrite the federal rule to eliminate its redundancies, ambiguities, excess verbiage, and confusing organization. Consequently, the Department's field staff has encountered difficulties implementing the regulations and drinking water utilities have been challenged in their efforts to comply. Therefore, the Department rewrote the existing state regulations as it incorporated the federal revisions. Given the major changes made to the format of the existing rule, the proposed regulation package is presented as a repeal of the existing Chapter 17.5 to be replaced by an entirely new Chapter 17.5.

The net effect of the chapter reorganization and proposed incorporation of the new federal revisions would be that:

1. Large water systems (serving more than 50,000 people) deemed to have optimized corrosion control would be required to continue monitoring to demonstrate that the treatment is maintained.
2. Systems with corrosion control treatment would be subject to a different compliance determination for water quality parameters.
3. Systems on reduced lead and copper monitoring would be required to use representative sampling sites.
4. Lead and copper tap samples could be invalidated if certain criteria were met.
5. Small water systems (serving 3,300 or fewer people) could obtain waivers for lead and copper tap sampling.

The first three effects listed above would result in insignificant or no fiscal impacts; the fourth could result in some savings for affected systems, while the last could result in significant savings for those qualified small water systems that obtain waivers due to reduced monitoring frequency.

The Department has determined that the proposed regulations would not have a significant adverse impact on businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations will not significantly affect the following:

1. The creation or elimination of jobs within the State of California. The requirements summarized above should not have any affect in this area in that there would not be any change in water system or regulatory personnel needed for compliance with the proposed requirements.

2. The creation of new businesses or the elimination of existing businesses within the State of California. The nature of the water industry is such that the proposed regulation will not result in the creation or elimination of water systems. The impact of these regulations will be insignificant. Based on previous experience, the Department does not expect that the monitoring costs estimated for this regulation will affect the number of businesses in California, while the overall net savings could be of benefit.

3. The expansion of businesses currently doing business within the State of California. Since water system size is basically a function of the number of service connections (consumers) served, the proposed regulations should not have any affect on expansion.

The Department has determined that the proposed regulations would not affect small business, since Government Code Chapter 3.5, Article 2, Section 11342.610 excludes drinking water utilities from the definition of small business.

ALTERNATIVES CONSIDERED

The Department has determined that no alternative considered by the Department would be more effective in carrying out the purpose for which the amendments to the regulations are being proposed or would be as effective and less burdensome to affected private persons.

LOCAL MANDATE DETERMINATION

The proposed regulation would not impose a mandate on local agencies that requires state reimbursement. Local agencies should not incur costs as a result of this regulation. However, if they were to incur costs, those costs would be of the following nature:

First, some local agencies would incur costs in their operation of public water systems. These costs would not be the result of a "new program or higher level of service" within the meaning of Article XIIIB, Section 6 of the California Constitution because they apply generally to all individuals and entities that operate public water systems in California and do not impose unique requirements on local governments. Therefore, no state reimbursement of these costs would be required.

Second, some local agencies could incur additional costs in discharging their responsibility to enforce the new regulations for the small public water systems (under 200 service connections) which they regulate. However, the Department has determined that any increase in the local agency costs resulting from enforcing this regulation would be insignificant. Furthermore, local agencies are authorized to assess fees to pay reasonable expenses incurred in enforcing statutes and regulations related to small public water systems. (Health and Safety Code Section 101325) Therefore, no reimbursement of any incidental costs to local agencies in enforcing this regulation would be required. (Government Code Section 17556(d)).